

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

TERRANCE EDWARDS,

Petitioner,

v.

Case No. 07-CV-275

PHIL KINGSTON,

Respondent.

ORDER

Petitioner Terrance Edwards ("Edwards") moves, pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, for the court to reconsider its order dated May 7, 2007. In that order, the court denied Edwards's first motion to reconsider the dismissal of the fifth and sixth claims in his federal habeas petition. The court found that Edwards had procedurally defaulted on those claims in state court. In his previous motion to reconsider, the court characterized the motion as one made pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. However, the court explicitly stated that the motion could also be denied under the Rule 60(b) standard.

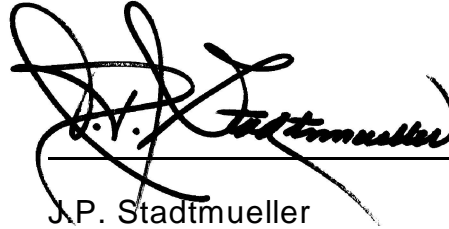
In his latest motion, Edwards claims that he is innocent because the state court lacked the jurisdiction to find him guilty and persons accused of crimes are innocent until proven guilty. The court addressed and explicitly rejected this argument in its May 7, 2007 order. As the court explained, Edwards's argument does not demonstrate that he is "actually" as opposed to "legally" innocent. See *Moleterno v. Nelson*, 114 F.3d 629, 636 (7th Cir. 1997).

Accordingly,

IT IS ORDERED that the petitioner's motion for reconsideration (Docket #37) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 24th day of September, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge